IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4411 OF 2005
WITH
WRIT PETITION NO.4328 OF 2005

W. P. No.4011/05 :

Tejbahaddur Shankarlal Shrivastav. ...Petitioner.
Versus
Phalgan Municipal Council & Ors. ...Respondents.
.....
Mr.S. M. Gorwadkar for the Petitioner.
Mr. S.B. Deshmukh for Respondent No.1.
Ms. Bhende, AGP for Respondent Nos.2 to 4.
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W. P. No.4328/05 :

Phalgan Municipal Council & Ors. ...Petitioner.
Vs.
The Director, Town Planning,
Maharashtra State, Pune & Ors. ...Respondents.
.....
Mr. S.B. Deshmukh for the Petitioner.
Ms. Bhende, AGP for Respondent Nos.1 to 3.
Mr. S.M. Gorwadkar for Respondent Nos.4 and 5.
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CORAM : A. P. SHAH AND
DR. D.Y. CHANDRACHUD, JJ.

September 2, 2005.

ORAL ORDER (PER DR. D.Y. CHANDRACHUD, J):

The Petitioner (in W.P. 4011 of 2005) owns land bearing CTS No.6447/A/78+79+80 admeasuring 1.33 Hectare within the limits of Phaltan Municipal Council. Under the revised Development Plan which came into force on 1st March 1993, the land has been reserved for a High School, Primary School and play ground and for a 9 meter wide Development Plan road. The Petitioner served a purchase notice under Section 127 of the Maharashtra Regional and Town Planning Act, 1966 on 14th May 2002 on the Municipal Council. On 31st October 2002, the Chief Officer of the Municipal Council thereupon submitted a proposal to the Collector of Satara for acquisition of the land. According to the Petitioner, the Collector of Satara returned the proposal to the Municipal Council on 10th December 2002 and, a little prior thereto, on 28th November 2002, the Municipal Council resolved that it was unable to purchase the land due to a paucity of funds. The Petitioner submitted a layout proposal to the Municipal Council on 10th June 2004. The Council rejected the proposal on 17th June 2004. The Petitioner filed an appeal under Section 47 before the Director of Town Planning. The appeal was

allowed on 22nd September 2004 with a direction to the Municipal Council to sanction the layout. The grievance of the Petitioner being that the layout was not sanctioned these proceedings were instituted under Article 226 of the Constitution. The Municipal Council has, on its part, filed a petition (W.P. 4328 of 2005) seeking to question the order passed by the Director of Town Planning on 22nd September 2004 calling upon it to sanction the layout proposal. According to the Municipal Council, it had taken steps within a period of six months from the receipt of the purchase notice by moving the Collector and in the circumstances, the reservation cannot be stated to have lapsed.

2. At the hearing of this petition, Counsel appearing on behalf of the Petitioner has stated before the Court that the Petitioner consents to the acquisition of the land and would, therefore, not press his case that the reservation has lapsed in pursuance of the purchase notice which was issued to the Municipal Council. However, Counsel appearing on behalf of the Petitioner submitted that having regard to the long lapse of time over which the property could not be developed as a result of the reservation, it would be

appropriate to direct that the acquisition be completed within a stipulated time schedule. On behalf of the Municipal Council it has been stated that the Municipal Council does require the land for the public purposes for which it is reserved and that the Municipal Council would, therefore, pursue necessary steps in accordance with law in order to effectuate the acquisition.

3. In this view of the matter, we are of the view that the ends of justice would be served by directing the State Government to issue a notification under Section 126(2) of the Maharashtra Regional and Town Planning Act, 1966 read with Section 6 of the Land Acquisition Act, 1894 within a period of three months from today. Thereafter, steps shall be taken in accordance with law for the issuance of notices under Section 9. The award shall be made no later than within a period of 12 months of the date of the notification under Section 126(2) of the Maharashtra Regional and Town Planning Act, 1966, read with Section 6 of the Land Acquisition Act, 1894, failing which the reservation shall lapse. In view of the statement which has been made on behalf of the Petitioner as noted above, the order of

the Director of Town Planning dated 22nd September 2004 is quashed and set aside. Both the Writ Petitions shall stand disposed of in these terms. There shall be no order as to costs.

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